

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-1221-E - ORDER NO. 96-193✓
MARCH 14, 1996

IN RE: Duke Power Company and Broad River)	ORDER
Electric Cooperative, Inc.,)	GRANTING
)	RECONSIDERATION
Complainant,)	
)	
vs.)	
)	
Board of Public Works of the City)	
of Gaffney,)	
)	
Respondent.)	
)	
)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the March 8, 1996 request of counsel for Broad River Electric Cooperative, Inc. (Broad River), concurred in by Duke Power Company (Duke) for reconsideration of our Order No. 96-167, which delayed action on the request that we declare our Order No. 93-271 valid.

Counsel for Broad River states that the Board of the Public Works of the City of Gaffney (Gaffney) had alleged certain Orders of the Circuit Court were no longer operative, due to an Order by the Supreme Court. The implication was that Order No. 93-271, issued subsequent to those Circuit Court Orders was no longer valid as well. Duke and Broad River challenge this assertion, and

state that Gaffney's letter fails to distinguish between the Circuit Court Contempt Orders and the Circuit Court's Order dated October 1992 on the merits and the Commission's Order No. 93-271, issued in compliance with the Circuit Court's Order of October 1992. According to counsel for Broad River and Duke, the latter Orders became the law of the case, since they were never appealed, and this is why it is important that the Commission confirms the viability of Order No. 93-271. Duke and Broad River states that they are simply requesting that the Commission establish that its Order No. 93-271 has not been overturned, modified, or repealed. They further state that the hearing scheduled for Docket No. 95-1221-E will then determine from the record whether this Order is controlling as to the issues presented in Docket No. 95-1221-E.

The Commission has examined this matter and grants reconsideration. Further, upon full reflection, we agree with Duke and Broad River that Order No. 93-271 has not been overturned, modified, or repealed, and that this Order has therefore become the law of the case. We therefore hold that Order No. 93-271 is still a valid Order, although we take no position on whether the Order is dispositive of the issues presented in Docket No. 95-1221-E.

IT IS THEREFORE ORDERED THAT:

1. Reconsideration of Order No. 96-167 is granted.
2. Order No. 93-271 is still valid, and is in full force and effect.
3. The Commission at this time takes no position as to

whether Order No. 93-271 is dispositive of the issues in Docket No. 95-1221-E.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)